

LAKE COUNTY PLANNING BOARD
February 10, 2010
Meeting Minutes

MEMBERS PRESENT: Bob Kormann, Lisa Dumontier (to 8pm), Sigurd Jensen, Steve Rosso, John Fleming, Janet Camel, Brian Anderson, Brad Trosper

STAFF PRESENT: Sue Shannon, Joel Nelson, Lita Fonda

Bob Kormann called the meeting to order at 7:00pm.

Steve Rosso gave a correction to the minutes on pg. 4, where 'listed' in the second paragraph after 'Public comment closed' needed to be changed to 'lifted'. **Motion by John Fleming, and seconded by Steve Jensen, to approve January 13, 2010 meeting minutes as corrected. Motion carried, all in favor.**

JOHNSON MINOR SUBDIVISION

Joel Nelson presented the staff report. (See attachments to minutes in the Feb 2010 meeting file for staff report.) Bob pointed out on page 13, in item L, the word 'recommending' was missing from the first sentence.

John asked about the ditch on the northern boundary. He was curious if there was further development on the ditch status, and if the ditch would be in the way of the vegetative buffer. Joel replied the 25' setback would encompass the ditch. The vegetative buffer would have to be created outside the ditch. They could do it anywhere between the proposed development and the ditch.

John asked about the 3rd paragraph on pg. 4 about the mixing zone. The way it's dealt with did this mean the Lake County policy of mixing zones on the property would no longer be discussed? Was this setting a precedent? Where would the Board stand on the next property that comes around? Joel thought they'd have to move the proposed drainfield location to contain it on the property. Apparently the agent thought because the adjoining properties have existing approved well and drainfield locations, that it's not taking [inaudible]. John checked that their policy will be to continue to write into these projects that the mixing zone will be on the property. Joel thought it would depend on what DEQ ended up doing with this proposal. It was staff's understanding that the mixing needed to be contained within the property boundaries.

Steve wondered about requiring land use specification for subdivisions when it was in an unzoned area. Sue explained the purpose was so the impacts could be reviewed. They needed to know what type of land use was going to be implemented to determine what type of impacts need to be looked at, and potentially conditioned. Steve asked about the difference between requiring them to specify land use when it's unzoned, and yet also requiring zoning if the neighbors want to specify land use. Sue highlighted the way it was enforced in the long term, and the process that you go through to make modifications to what was a permitted use. Steve asked if a future owner decided on a different use, was there much the County could do about

that different use. Sue said if it had additional impacts, there was. They might have to amend the subdivision approval, for example, and there would be a process for that.

Dave DeGrandpre spoke on behalf of the applicant. He spoke more on the area of land use. In zoned areas, subdivision was an administrative act. It was very formulaic. Land use was covered by zoning. Where areas weren't zoned for land use, in some ways you had to get into it. It's difficult to evaluate a subdivision proposal if you didn't know what the land use was going to be. How do you evaluate what the impacts will be? At the same time, subdivision review wasn't set up to do that to the same level as zoning was. His client wanted to keep some options open, so they focused on coming up with performance standards as a way to deal with impacts. It was a mixed use type area, as Joel described. Dave detailed surrounding uses.

Dave asked about conditions #9 and #10 on page 19. In #9, he asked that "prior to final plat approval" part be struck, and that the road approach permit be applied for by a future lot purchaser when that happened. Regarding condition #10, he mentioned that legal and physical access ought to be the same. He thought staff didn't want this to be the primary access where there's been no review or specification. The buyer of lot 1 would have the right to use the easement, however. He spoke about the wording, and suggested that a period be placed after the second mention of review within the second sentence of the condition, and the condition end there. He thought this would say if the easement to the highway would be used by future owners as a primary access, that it undergo some sort of review through the Lake County Planning office. It might come back to the Board as something like an amended preliminary plat or something along those lines. He thought that would meet the County concern and also not muddy waters by seeking to disallow the use of the easement, which was already existing. Highway 83 is an MDT facility. Per MDT, if there's a real change in use of that approach, there has to be a review process through MDT.

Sue agreed with Dave's comment on #10 where 'is not approved' made it sound like it couldn't be used. She suggested changing that to 'has not been reviewed', which would make it clearer and still allow for potential use in the future. Dave said he had no objections. Dave read #10 with the two suggested changes.

Steve asked about the current road surface conditions. Dave said he hadn't walked it. He thought it might currently be an open meadow rather than a road. Steve asked if there was an approach onto the highway. Dave said there was one there. He had an aerial photo of it. It appeared to be shared by more than simply this property.

Janet asked if there were buried utilities. Dave knew of none. She asked if the ditch could possibly be considered for connecting. Dave said the feature was definitely a little ditch. He said Joel found it on a water resources survey the state put out around 1962 or 1963, which showed this was the end of a private irrigation ditch. It just peters out. He showed the approximate dimensions with his hands. DNRC had no record of it. It appears to terminate on the property.

Steve referred to condition #9, and asked if Dave was asking for the other reference to final plat to be removed. Dave affirmed, and added condition #9 was also addressed in condition #14, and

condition #10 was also presented as condition #38. He requested the changed made to #9 and #10 also be made to #14 and #38. Sue asked what needed to be changed in #14. Dave said he misspoke. Condition #14 addresses the same circumstances, but to him, it seemed worded as the standard condition for that. Joel suggested eliminating #9, since condition #14 would cover the situation.

Bob asked about page 7 and the second paragraph. Had Dave met with the Road Supervisor? Dave said he had. Bob asked more about the meeting. Dave said he seemed a little annoyed at the beginning of the conversation. Dave thought this was because he felt it was hard to adequately assess potential impacts without knowing when, what the report gets at. In talking about Halverson Drive itself and some of the specifics, Dave felt the Road Supervisor felt it wasn't an issue. Dave couldn't say there would be no impacts on this road, but he thought it was likely that there were not going to be, and he thought that was the Road Supervisor's feeling.

Bob asked Joel if he had verbal conversations with the Road Supervision. Joel said he asked the Road Supervisor a few weeks ago about recent requests for subdivision in the Ferndale area, and the answer was somewhat evasive. Sue asked if the Road Supervisor had an opportunity to go to the site and look at where this was. Dave said not that he knew of. He just happened to see the Road Supervisor, and they spoke about 2 subdivisions: the lifting of the Campbell agricultural restriction and this one. Bob asked if the agent was notified if the Road Supervisor was going to make an onsite visit to look at the approach. Dave explained typically he would send a letter with a map asking for specific comments. Sometimes he gets a letter back, fairly frequently, but not in this case.

Bob asked if the approaches were flagged or marked so when the Road Supervisor goes there, he knows where the approaches would be. Dave said sometimes. He thought in this case it was pretty clear. Bob pointed out he had a discussion with the Road Supervisor today. Sometimes he goes to the property to inspect, and the approaches aren't marked, so Bob was passing that information along. Marc Carstens commented that sometimes a lot of their preliminary marking doesn't last very long—vandalism, snowplows and things happen to it. He thought the consultant community would very much like to meet in the field with the Road Supervisor and demonstrate where these are. If there were concerns, they could be in a position to hear them out and agree to something, they could do this letter, they could make alterations. Bob checked that Marc would appreciate a phone call a few days in advance. Marc confirmed. He thought they could meet in the field and resolve issues rather than throw letters back and forth. Sue suggested that Marc might update the form letter he sends to the Road Supervisor for subdivisions to encourage that. Bob suggested to the Board to give this some thought, because in Other Business the Board would talk about this.

Janet asked if there was a weight limit on the road. Dave thought County Commissioners set weight limits on all County roads. Janet said sometimes a weight limit sign was posted, and then was taken down depending on if the ground was frozen. Spring thaw was usually when the sign is put back up. Vandalism was obviously an issue. Weight limit might affect the type of heavy equipment used. Marc said the weight limits were typically seasonal, and had to do with the condition of the road base being able to maintain. A lot of times when the weight limits come down, it's the County determined that the road base was satisfactory for the heavier loads. It had

to do with the moisture conditions in the road base. He'd seen the signs go up if there was an irrigation ditch near a County road during irrigation season when there was supersaturation.

Public comment opened: None offered. *Public comment closed.*

Motion made by Lisa Dumontier, and seconded by Steve Rosso, to recommend approval with staff recommendations with the following changes:

- **omit condition #9**
- **change the wording of condition #10 (pg. 19), by taking out 'is not approved' in the first sentence and replace with 'has not been reviewed'**
- **in condition #10 on line 6, add a period after the second mention of 'review' within that sentence and eliminate the rest of the sentence.**
- **make the same changes in condition #38 as made in condition #10.**

Motion carried, all in favor.

NORTHWEST MINOR SUBDIVISION

Joel Nelson presented the staff report, and Marc Carstens handed out a larger-sized plat to the Board. (See attachments to minutes in the Feb 2010 meeting file for staff report and for handout.) Regarding section II.i and the natural environment, Joel said the staff report notes the staff doesn't know the status of the submittal to the US Army Corps of Engineers. He spoke to Christina Schroeder, who is reviewing the permit for the US Army Corps of Engineers, and who said the project does qualify for a nationwide permit and appears sufficient for review, but she couldn't do a site visit during the winter on this property.

Marc Carstens spoke on behalf of the applicants. He had the same comments on condition #10 and #45, as were given for condition #10 and #38 in the preceding subdivision this evening. With condition #14 (pg. 27), he thought that rather than the original of the approved approach permit, a copy would be appropriate, since his staff didn't know where the original ended up.

Steve asked about the contour lines on tract 3B. Except for the south edge, was that whole elevation within 2'? Marc thought that was probably correct. There may be anomalies with slight raised spots. It was quite forested, so getting data points at a high frequency wasn't very practical. Steve confirmed with Marc that the building site was the high spot. Marc thought this was part of the reason for the high groundwater concern. Steve asked about the lack of soil tests for tract 3. Marc said this was because they intend to put the drainfield on tract 2B, which is easemented. Steve was concerned about the stability of a house foundation. Marc said this was why the planning staff included a condition for the statement on the face of the place to advice of that potentiality.

Marc noted he received a call from the regional National Forest people, and the property to the west was actually Department of Natural Resources. His map was incorrect and he noted the map handout was modified. The national forest is a quarter mile away.

Bob asked if the crossing of the wetland with driveway would be culvert and fill. Marc said he wasn't directly involved with the crossing. They'd hired PBS&J, who were wetland specialists, in order to deal with the necessary elements of crossing wetlands.

Janet checked that there was no monitoring done, but they expected a layperson to understand the need for monitoring. Marc read the condition the planning staff wanted on the face of the plat on pg. 28. He explained the red ink nearest to it was a buffer zone. The wetlands were an additional 100 feet away. Janet expressed concern about a high precipitation event, and wetland areas have a lot of potential for freeze/thaw, black mold issues. Without more contour details, it seemed hard to tell if that was a safe spot. She was concerned that they couldn't see this, and it could be an issue. In her neighborhood, there was potential for flooding that showed up seasonally. This issue was becoming more and more prevalent.

Steve asked about the intentions of the landowners. Did they plan to develop this for their own use, or did they intend to sell? Marc didn't know.

Sue noted the intent of condition #24 was to let people know there's data available in the Planning office for their review, if they would like to review it. She asked if it would be helpful to add PBS&J wetland delineation into that. Brian thought that would be a really good thing to put in. They would have had to do soils and everything else. Marc said they could cross reference that, and suggested some language.

Public comment opened:

Ed Langlois: He didn't understand if the easement across his property would be used for access. What was the status of the easement?

Marc C: He replied the easement exists. This activity didn't take away a right for future use of that easement. What was being reviewed did not anticipate construction of a roadway within that. If a roadway was intended to be constructed in the future, condition #10 would mandate more review prior to a road being constructed on that. At this time, it wasn't contemplated.

Ed L: He asked if it would just take a purchaser deciding not to use the other access.

Marc C: He asked how the modified condition #10 read.

Joel N: He read the condition.

Marc C: Before the easement was to be used by anybody, plans for its construction would have to be submitted to Lake County Planning for a review.

Ed L: He asked if this included everything as far a road approaches and getting back up onto Crane Mountain Road.

Marc C: Yes.

Steve R: He thought the process was that if the County said it was okay, then it would go through the DEQ again and the County road people to make sure the road was built properly.

Marc C: His advice to his client was if he ever did intend to build on that, that he retain a civil engineering, have the studies completed by the time he makes an application.

Bob K: He asked Ed L. if this answered his question.

Ed L: It did, and described some events of a couple years ago, when access was looked at.

Steve R: It looked like this wetland may cross into that.

Ed L: There was actually flowing water to the north of that right of way that flowed back down there and turns across the back of his property. He described where a creek came out and down in the spring. There were several places where water crossed this right of way. Especially down by the highway, there's a regular creek [inaudible].

Marc C: There were challenges that would have to be properly permitted, and would need 310 permits. They would need to review that. It is a right of [inaudible] of the property. There's a condition that they would have to come back and review [inaudible].

Janet C: She wondered if they considered other lot layouts, due to the water saturation.

Marc D: He wanted to go forward with what the client wanted within the guidelines.

Janet C: [Inaudible.]

Marc C: His client liked the building site.

Public comment closed.

Bob asked that when the Board gets to motions, that the staff read the language for conditions #10 and #45, and also for the addition to #24.

Steve checked that all of this has to go through DEQ review and approval. If something stands out seriously with the wetlands and there's a potential for not having a good foundation in tract 3B they can count on DEQ to notice that kind of stuff. He asked about the final plat administrator. Sue said it goes through the Commissioners. Marc detailed on DEQ review, which follows preliminary plat approval. All comment that could be pertinent to DEQ review is sent in with it. Bob asked if Marc was saying that if they, as a Board, stated they had concerns about the groundwater on tract 3B, and they would like DEQ to be aware of those concerns. Marc said this was what he understood.

Steve asked if they needed another condition that would require that the DEQ submission includes the Board's concern of the potential for the a safe building site on tract 3B with respect to the ground water and its ability to handle a residential home foundation. Joel noted condition #4 required public comment be obtained and submitted to DEQ. Typically the minutes and the conditions of approval would be submitted. It could also be a specific condition. Steve thought it should be a specific condition.

Sue explained DEQ only looked at water, sewer and stormwater. They wouldn't look at the potential for building. Marc said prior to final plat approval they would submit detailed engineering report on the building [inaudible] of lot 3B and if necessary engineered building designs for foundation, footing and crawlspace. Steve and Marc agreed they needed to add a condition. Marc said that prior to final plat approval, a detailed engineering report for the suitability of building on lot 3B, and if necessary, a detailed engineered design for foundation, footings and crawlspace. If the engineered design was found necessary, this would be submitted with the final plat and filed.

Janet suggested adding some language about pet food: it shall be stored indoors or in bear proof containers, as opposed to just in bear proof containers. This was in i in the covenants and also in the conditions. Steve noted condition #27 talked about dogs and cats, and was part of the Fish and Wildlife recommendations. Marc thought the covenants required some editing.

Janet said with engineered footings, she was concerned about proper drainage away from the building. She was concerned about water coming up under the foundation and footings, inside the place. Marc felt confident the condition should not lead to that.

Motion made by Brad Trosper to recommend approval with staff recommendations with the following changes:

- **change the wording of condition #10 (pg. 26), by taking out 'is not approved' in the first sentence and replace with 'has not been reviewed'**
- **in condition #10 on line 5, add a period after the second mention of 'review' within that sentence and eliminate the rest of the sentence**
- **make the same changes in condition #45 as made in condition #10**
- **change 'The original copy' to 'A copy' in condition #14**
- **add "and a wetland delineation report occurred in 2009" after '2008' in condition #24**
- **add a condition 'Prior to final plat approval, the developer will submit a detailed engineering report regarding the suitability of building on lot 3B. If deemed necessary by the report, an engineered design for the foundation, footing and/or crawlspace of the building will be included. Proper drainage around the foundation will be included. This information shall be submitted to Planning with the final plat.'**

Joel and Sue read the conditions as modified. Marc asked if something should be included in the added condition about reducing or inhibiting mold. Steve thought what may happen was an engineer may decide that a crawlspace was not suitable. A solid foundation, without crawlspace, may be what's recommended. Janet suggested addressing the potential impacts of high ground water. Sue checked if mold should be mentioned specifically. Janet thought it could say including mold. Marc said if the drainage and structure were taken care of, there was no mold. It was a by-product of improper drainage. Bob asked if this was #46. Sue thought it would probably be put as #25, and then the perpetual conditions would be renumbered to be #26 through #46.

Motion was seconded by John Fleming. Motion carried, 6 in favor (Bob Kormann, Sigurd Jensen, Steve Rosso, John Fleming, Brian Anderson, Brad Trosper) and one opposed (Janet Camel).

OTHER BUSINESS

Bob handed out a draft letter to the Commissioners regarding receiving comment from the Road Department for subdivision applications. The Board discussed the background and the letter. They discussed possibilities, such as a single-page checklist, that might clarify or simplify the process of making comments. Items such as sight distance, speed limit and weight limit might be included. As mentioned earlier tonight, the consultants would appreciate an opportunity to meet on-site with the Road Supervisor, if possible. Bob said it would be a good idea for the Planning staff, Commissioners and Road Supervisor to meet and talk about these concerns. Sue thought it would be good to focus on what we could all do to make it a better process. The Board agreed to a few changes to the letter, so the letter could be finalized for signing.

Steve noted he would like to visit some of the sites prior to meetings. He asked if there was a way to find out about the locations earlier. Joel suggested the notice to the adjacent neighbors could be sent to the Board. Members thought that the notice via email would be fine.

Janet asked if there was a standard condition about contacting the Tribe if something was found. She explained aboriginal territory extended throughout the state. Joel noted these were both first minor subdivisions and there was no requirement for them to obtain anything from the Tribal Preservation Office or the State Preservation Office. One group simply chose to check, so the condition was included. He said it might be a good point to start including the information on notification, so they would notify the appropriate office. Janet clarified it wouldn't be an extra step for people. It would only be if something was uncovered.

Motion made by John Fleming, and seconded by Sigurd Jensen, to adjourn. Motion carried, all in favor. Meeting adjourned at 8:55 pm.